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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 27 and 90

[PS Docket No. 12-94; PS Docket No. 06-229; and WT Docket No. 06-150; DA 13-1775]

First Responder Network Authority Filing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On August 19, 2013, the Public Safety and Homeland Security Bureau of the Federal Communications Commission (Commission) released a public notice inviting public comment on a filing submitted by the First Responder Network Authority (FirstNet) on August 2, 2013, in PS Docket 12-94. The filing addressed consolidation of technical service rules for the 758-769 and 788-799 MHz bands,

DATES: Submit comments on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by PS Docket 12-94, by any of the following methods:

- Federal Communications Commission's Web Site: <http://fjallfoss.fcc.gov/ecfs2/>.
Follow the instructions for submitting comments.
- Mail.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the PROCEDURAL MATTERS section of this document.

FOR FURTHER INFORMATION CONTACT: Gene Fullano, Federal

Communications Commission, Public Safety and Homeland Security Bureau, at (202) - 418 – 0492 or genaro.fullano@fcc.gov; or Brian Hurley, Federal Communications Commission, Public Safety and Homeland Security Bureau, at (202) – 418 – 2220 or brian.hurley@fcc.gov.

SUPPLEMENTARY INFORMATION: The Public Safety and Homeland Security Bureau of the Federal Communications Commission provides seven days for public comment on matters raised by the First Responder Network Authority (FirstNet) in its August 2, 2013, filing in PS Docket 12-94.¹ FirstNet’s filing responds to a Notice of Proposed Rulemaking (NPRM) that seeks comment on, among other matters, the consolidation into Part 90 of technical service rules for the 758-769 and 788-799 MHz bands, which, heretofore, have been subject to regulation under both Parts 27 and 90.² The rules at issue include power, emission, and field strength limits and interference coordination procedures designed to prevent interference to operations of other Commission licensees. This proposed rule consolidation is intended to “facilitate the transition” of spectrum to the First Responder Network Authority (FirstNet), the entity licensed to establish a nationwide public safety broadband network using both the public safety broadband spectrum (763-768/793-798 MHz) and the adjacent “D Block” (758-

¹ The Bureau takes this action pursuant to its delegated authority. See 47 CFR 0.392. As noted elsewhere herein, the short time frame provided by this notice is warranted in light of the pressing need recognized by FirstNet and other commenters for expedition on reinitiating the currently suspended equipment authorization process. Moreover, this notice follows a full NPRM comment period. Accordingly, parties should submit any new arguments now in order to facilitate prompt action by the Commission.

763/788-793 MHz) previously slated for commercial auction.³ In proposing this rule consolidation, the Commission further directed its Office of Engineering and Technology (OET) to suspend its acceptance and processing of applications for equipment authorization in these bands pending the adoption of technical service rules applicable to the combined band.⁴

In its filing, FirstNet supports “consolidating the technical requirements for the former D Block into Part 90 of the Commission’s Rules” and recommends that the Commission “act quickly to amend its technical service rules to enable FirstNet to expedite the deployment of” its network.”⁵ Additionally, FirstNet urges “swift Commission action to begin accepting and processing equipment authorizations in the newly combined spectrum,” citing “an imminent need for authorized equipment to meet the needs of jurisdictions that may deploy early” in FirstNet’s licensed spectrum under spectrum leases. FirstNet has already entered lease agreements with the Los Angeles Regional Interoperable Communications System (LA-RICS) and the State of New Mexico, and it has stated its intention to execute similar agreements with other public safety jurisdictions in the near future.⁶ While FirstNet supports Commission action to

² See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket No. 12-94, Notice of Proposed Rulemaking, 28 FCC Rcd 2715 (2013) (Technical Service Rules NPRM), published in the Federal Register April 24, 2013 (78 FR 24138). The comment cycle closed on June 10, 2013.

³ See *id.* at 2716, 2721 ¶¶ 2, 17; see also 47 U.S.C. 1424 (2012) (establishing FirstNet). FirstNet’s license also includes the 768-769/798-799 MHz band, *id.* 1401(14), 1421(a), which is currently designated under Commission rules as a guard band separating the broadband and narrowband segments of the 700 MHz public safety spectrum. See 47 CFR 90.531(f).

⁴ See *id.* at 2725-26 ¶ 33.

⁵ See Comments of the First Responder Network Authority (FirstNet), PS Docket 12-94 at 4 (Aug. 2, 2013).

⁶ See National Telecommunications and Information Administration, FirstNet Approves Resolutions on Spectrum Lease Agreement with LA-RICS and Personnel Acquisition Strategy, <http://www.ntia.doc.gov/press-release/2013/firstnet-approves-resolutions-spectrum-lease-agreement-la-rics-and-personnel-acqu> (last visited Aug. 15, 2013); National Telecommunications and Information Administration, FirstNet Approves Spectrum Lease Agreement with New Mexico; Provides Status Update on Remaining Projects, <http://www.ntia.doc.gov/press-release/2013/firstnet-approves-spectrum-lease-agreement-new-mexico-provides-status-update-rem> (last visited Aug. 15, 2013). According to FirstNet the lease with LA-RICS is the first such agreement between FirstNet and one of the seven public safety Broadband Technology Opportunities Program grantees. These include: the Adams County (Colorado) Communications Center, the City of Charlotte (North Carolina), the Executive Office of the State of Mississippi, the

“expedite a process” for equipment authorization to support these early deployments, it cautions that “the equipment market will need to evolve once the architecture for the nationwide public safety broadband network has been set.”⁷

The full text of FirstNet’s filing is available in PS Docket 12-94 in the Commission’s Electronic Comment Filing System (ECFS), <http://apps.fcc.gov/ecfs>.

PROCEDURAL MATTERS: The proceeding has been designated a “permit-but-disclose” proceeding in accordance with the Commission’s rules.⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to

Los Angeles Regional Interoperable Communications System Authority, Motorola Solutions, Inc. (the Bay Area Regional Interoperable Communications Systems Authority (BayRICS), San Francisco Bay area), the New Jersey Department of the Treasury, and the New Mexico Department of Information Technology. See id. FirstNet is also engaged in lease negotiations with the State of Texas, which holds a Special Temporary Authorization (STA) from the Commission to pursue early deployment in the band of a public safety network that “support[s] specific public safety needs.” See Implementing Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket 12-94, Order, DA 13-319 at 2 ¶ 5 (PSHSB 2013). The Commission granted this STA for “limited deployment” of a public safety broadband network within Harris County, Texas, “as FirstNet prepares to commence its nationwide deployment.” Id. at 1 ¶ 2

⁷ Comments of FirstNet at 3.

Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments by the date referenced above. All filings should refer to PS Docket No. 12-94. Comments may be filed: (1) using the Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Comments filed in response to this *Public Notice* will be available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, PS Docket No. 12-94. Copies of the request are also available from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Comments may be filed using the ECFS or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must

⁸ *See* Technical Service Rules NPRM, 28 FCC Rcd at 2733-34 ¶ 62.

be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission, as follows:

-All hand-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building.

The filing hours at this location are 8:00 a.m. to 7:00 p.m. PLEASE NOTE: This

is the ONLY location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. The Commission's former filing location at 236 Massachusetts Ave., N.E., is permanently closed.

-Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

-U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, DC 20554.

-All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov Federal Communications Commission.

Lisa M. Fowlkes,
Deputy Chief, Public Safety and Homeland Security Bureau.

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